

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SANDRO GREGORAT

Appeal No. 2003-1143
Application 09/461,072

ON BRIEF

Before OWENS, GROSS and BARRY, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 2-8, 10-16 and 18-24, which are all of the claims pending in the application.

THE INVENTION

The appellant claims an apparatus and method for maintaining synchronization between the data in a source data file and a copy data file. Claim 2, directed toward the apparatus, is illustrative:

2. A data synchronization apparatus for maintaining synchronization between a source data file and a copy data file comprising:

a bulk copy controller capable of copying a plurality of data records from said source data file to said copy data file; and

an update controller capable of detecting a change in a data record previously copied by said bulk copy controller from said source data file to said copy data file and copying said changed data record from said source data file to said copy data file, wherein said update controller and said bulk copy controller operate substantially concurrently.

THE REFERENCE

Bauer et al. (Bauer)	5,926,816	Jul. 20, 1999
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THE REJECTION

Claims 2-8, 10-16 and 18-24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bauer.

OPINION

We reverse the aforementioned rejection. We need to address only the independent claims, i.e., claims 2, 10 and 18.

Bauer discloses a database synchronization system and method wherein a client modifies its tabular database with refresh data from a server to bring the client and server databases into synchronization (col. 2, lines 47-67). Software at the client determines what updates to a client table have taken place since the last refresh (col. 12, line 66 - col. 13, line 1). The updates are propagated to the server, which has determined what changes have taken place to a server table since the last refresh (col. 13, lines 4-6). The server detects update conflicts, resolves them, and propagates the updates back to the client as refresh data (col. 13, lines 6-8). The client may accept or reject the refresh data from the server (col. 11, line 67 - col. 12, line 1).

The appellant's claims 2 and 10 require a bulk copy controller capable of copying a plurality of data records from a source data file to a copy data file, and an update controller capable of detecting a change in a so-copied data record and copying the changed data record from the source data file to the copy data file, wherein the update controller and the bulk copy controller operate substantially concurrently. The appellant's claim 18 requires sequentially copying a plurality of data

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records from a source data file to a copy data file, detecting a change in a so-copied data record, and copying the changed data record from the source data file to the copy data file, wherein the step of sequential data record copying and the step of detecting and copying a changed data record are performed substantially concurrently.

Regarding the requirement of claims 2 and 10 that the update controller and the bulk copy controller operate substantially concurrently, the examiner argues that Bauer's server and client operate substantially concurrently when they detect changes in data files on the server and client sides and synchronize those files (answer, pages 3-4 and 8).

During patent prosecution, claims are to be given their broadest reasonable interpretation consistent with the specification, as the claim language would have been read by one of ordinary skill in the art in view of the specification and prior art. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *In re Sneed*, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983); *In re Herz*, 537 F.2d 549, 551, 190 USPQ 461, 463 (CCPA 1976); *In re Okuzawa*, 537 F.2d 545, 548, 190

USPQ 464, 466 (CCPA 1976). Limitations, however, are not to be read from the specification into the claims. See *In re Prater*, 415 F.2d 1393, 1405, 162 USPQ 541, 551 (CCPA 1969).

In the description of the simultaneous operation of the bulk copy controller and the update controller in the appellant's specification, the bulk copy controller operates to copy a plurality of data records from a source data file to a copy data file and, as part of that operation, increment a synchronization descriptor (page 16, line 17 - page 18, line 10). Performing that operation is the only disclosed function of the bulk copy controller in the appellant's specification (page 5, lines 1-6; page 13, line 21 - page 14, line 20; page 16, line 8 - page 17, line 6; page 18, lines 7-16). Hence, the broadest reasonable interpretation of the appellant's claim term "operate substantially concurrently", in view of the specification, is that the bulk copy controller's bulk copying operation takes place substantially concurrently with the update controller's detecting and update copying operation. Thus, contrary to the examiner's argument, the appellant's claim requirement that the update and bulk copy controllers operate substantially

concurrently is not met by Bauer's detecting changes in data files on the server and client sides and synchronizing those files.

The examiner has not established that Bauer's server is capable of performing a bulk copy operation substantially concurrently with the update controller's detecting and update copying operation, or that Bauer would have fairly suggested, to one of ordinary skill in the art, a server having that capability. Consequently, the examiner has not carried the burden of establishing a *prima facie* of obviousness of the inventions claimed in the appellant's claims 2 and 10, and the claims that depend therefrom.

As for the requirement in claim 18 that the step of sequentially copying and the step of detecting a change in a data record are performed substantially concurrently, the examiner has not explained how Bauer discloses or would have fairly suggested that claim requirement to one of ordinary skill in the art. The examiner, therefore, has not established a *prima facie* case of obviousness of the invention claimed in the appellant's claim 18 and its dependent claims.

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DECISION

The rejection of claims 2-8, 10-16 and 18-24 under 35 U.S.C. § 103 over Bauer is reversed.

REVERSED

Terry J. Owens
TERRY J. OWENS
Administrative Patent Judge

Anita Pellman Gross
ANITA PELLMAN GROSS
Administrative Patent Judge

BOARD OF PATENT

APPEALS AND

INTERFERENCES

LANCE LEONARD BARRY
Administrative Patent Judge

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